

REMARKS

Applicants' representatives thank Examiner Al-Hashemi for extending the courtesy of a telephonic interview on May 5, 2010. A summary of this interview is set forth in the remarks below. Pursuant to this interview, Applicants are submitting this Supplemental Amendment in which Applicants have amended claims 1, 8, and 14, and canceled claims 2, 9, and 15 without prejudice to or disclaimer of subject matter therein. No new matter has been added by way of these amendments. Applicants respectfully bring to the Office's attention the foregoing amendments to the claims are an adoption of the Examiner's suggestions made during the telephonic interview, which amendments as indicated by the Examiner could place the above-noted patent application in condition for allowance. In view of the foregoing amendments and following remarks, reconsideration of the outstanding office action is respectfully requested.

The Office has rejected claims 1-19 and 21-28 under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 6,466,915 to Suzuki et al. (Suzuki) in view of U.S. Patent No. 6,871,012 to Evans (Evans) and further in view of U.S. Patent No. 7,165,105 to Reiner et al. (Reiner) and further in view of U.S. Patent No. 6,507,727 to Henrick (Henrick).

However, Suzuki, Evans, Reiner, and Henrick, taken alone or in combination do not disclose or suggest "a usage metrics system at a second device remote from the first device that receives the stored usage data associated with the purchased downloaded digital content and processes the usage data to provide inference results, wherein the usage metrics system organizes the usage data into at least one of a plurality of categories comprising a genre type of digital content, time based consumption of the digital content and date based consumption of the digital content," as now recited by amended claim 1, or "receiving from a usage metrics system in the second device processed usage data to provide inference results, wherein the processed usage data is generated by organizing the usage data into at least one of a plurality of categories comprising a genre type of digital content, time based consumption of the digital content and date based consumption of the digital content," as now recited by amended claims 8 and 14.

The Office asserts Suzuki in FIG. 11 illustrates a table which forms the usage metrics system, and permits inferred conclusions, such as the conclusion that a customer prefers a specific size (Office Action at pp. 3). Applicants respectfully disagree with the

Office's assertions. FIG. 11 in Suzuki is "an example of a format of an order reception file 3" (*see*, col. 13, lines 66-67). Contrary to the Office's assertions, the order reception file 3 is not Applicants' "usage metrics system" that "organizes the usage data into at least one of a plurality of categories comprising a genre type of digital content, time based consumption of the digital content and date based consumption of the digital content," as now claimed. Instead, the order reception file 3 is described in Suzuki at col. 13, line 67-col. 14, line 11 as follows (emphasis added):

The order reception file 3 shown in the figure includes the customer information 191 comprising customer (identification) number, name and address; goods information 102 comprising article (identification) number, color, size, number of articles and price; a mark 103; and payment information 104. When a customer makes a final order for an article, the mark indicating that the article has been selected is set as the mark 103 of that article. Specifically, '1' is set as the mark 103 when a customer buys an article and '0' is set as the mark 103 when the customer merely selects the article.

As noted above, this order reception file 3, which the Office alleges is the claimed usage metrics system, only notes conditions for placing of an order for an article, buying an article, or merely selecting the article by a customer. However, the asserted order reception file 3 does not disclose or suggest the claimed usage data organized by the usage metrics system into "a plurality of categories" comprising information about the consumption of the purchased digital content (*e.g.*, "time based consumption of the digital content") and genre type of the digital content, as now recited by the amended claims. Therefore, Suzuki does not disclose or suggest the above-noted limitation of claims 1, 8, and 14. Like Suzuki, Evans, Reiner, and Henrick, fail to disclose or suggest the above-noted limitation of amended claims 1, 8, and 14.

The Office's attention is respectfully requested toward ¶ [0042] of Applicant's original filed specification, where by way of example only Applicants describe the claimed usage metrics system (emphasis added):

[0042] Additionally, the summarizer 40 uses the time and date information for the digital content to draw conclusions with regard to usage patterns. For instance, the summarizer 40 may generate statistics on what time of day the user listens to music most often and/or what types or genres of music the user listens during certain times of day. Still further, the summarizer 40 may surmise that the particular user, such as "user1", is an avid music listener based on the date information, such as music play events that are recorded on a daily basis. These conclusions are stored by the digital content usage summarizer 40 in the usage data summaries storage 44. In embodiments

of the present invention, the usage summaries storage 44 is organized to have the user identification identifier as the key, along with corresponding values including the most common music genre played by the user, a time of day when the user is most likely to play the music, the number of times the user plays a piece of music, such as a particular song, and whether the user is likely to play an entire song or cancel a song before it is done playing. In embodiments of the present invention, steps 700-800 are repeated for one or more users at computer 12(1) or at other devices. The summarizer 40 processes and stores usage data for the one or more users as described above.

An advantage of providing such usage metrics based upon usage of already downloaded digital content, for example, is that content providers can personalize future sales of digital content according to an individual user's preferences, without any intervention from the user (*see*, for example, paragraphs [0009]-[0011] of the original filed specification).

Accordingly, in view of the foregoing remarks, the Office is respectfully requested to reconsider and withdraw this rejection of claims 1, 8, and 14. Since claims 3-7 and 21-24 depend from and contain the limitations of claim 1, claims 10-13 and 25-26 depend from and contain the limitations of claim 8, and claims 16-19 and 27-28 depend from and contain the limitations of claim 14, they are distinguishable over the cited references and patentable in the same manner as claims 1, 8, and 14.

Accordingly, in view of the foregoing amendments and remarks, the telephonic interview with the Examiner, and additionally, the remarks presented in the response to the office action filed April 21, 2010, Applicants respectfully submit the present application is in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

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